Held, that the plaintiff can recover the value of the bull. *Carrington* v. *Worcester Consolidated St. Ry. Co.*, 109 N. E. 828 (Mass.).

Unlicensed automobiles are held in Massachusetts to be trespassers, and neither their owners nor persons riding in them can recover from negligent defendants. *Dudley* v. *Northampton St. Ry. Co.*, 202 Mass. 443, 89 N. E. 25; *Holden* v. *McGillicuddy*, 215 Mass. 563, 102 N. E. 923. See *Bourne* v. *Whitman*, 209 Mass. 155, 171, 95 N. E. 404, 408. See 28 HARV. L. REV. 505. But bulls are apparently less trespassers than automobiles, though the only offense of the machine is the failure of its owner to pay a license tax, while the bull's very presence is in effect prohibited by the positive requirement that he be taken up. Indeed, it has been expressly stated by the Massachusetts court that the presence of cattle in the highway under such a statute is unlawful. See *Leonard* v. *Doherty*, 174 Mass. 565, 570, 55 N. E. 461, 462. The distinction cannot be explained by a lenience toward cattle, for in Massachusetts cattle trespassing on private property render their owners liable. *Lyons* v. *Merrick*, 105 Mass. 71. And even where by decision or statute this is otherwise, cattle straying upon private property are nevertheless trespassers and have only the rights of such. *Beinhorn* v. *Griswold*, 27 Mont. 79, 69 Pac. 557; *Herold* v. *Meyers*, 20 Ia. 378. *Cf. Haughey* v. *Hart*, 62 Ia. 96, 17 N. W. 189. In many jurisdictions there is a duty of due care in active conduct owed to trespassers after their presence has come to the attention of the defendant. *Herrick* v. *Wixon*, 121 Mich. 384, 80 N. W. 117. In such jurisdictions, or in the absence of a rule holding an unlicensed automobile a trespasser as against lawful users of the highway, the decision in the principal case is right enough. *Smith* v. *St. Paul City Ry. Co.*, 79 Minn. 254, 82 N. W. 577. *Cf. Davies* v. *Mann*, 10 M. & W. 546. But where actually made it seems to show a tendency, previously noticed, to regard persons who use automobiles as in some way deserving of less consideration than the remainder of mankind. See 28 HARV. L. REV. 91.

PARENT AND CHILD — AGREEMENTS CONCERNING CUSTODY — LIABILITY OF PARENT. — A father who had delivered his infant child to the plaintiff under an agreement that the latter should keep it until it came of age, took the child back before that time arrived. *Held*, that the plaintiff can recover on a *quantum meruit* for services actually rendered. *Gordon* v. *Wyness*, 155 N. Y. Supp. 162.

In determining disputes as to the custody of children, the court acts as *parens patriae* and regards the welfare of the child as the controlling consideration. *Kelsey* v. *Green*, 69 Conn. 291, 37 Atl. 679. When the interests of the child will best be promoted by leaving it with its foster parent, the father will not be allowed to take it back. *Hussey* v. *Whiting*, 145 Ind. 580, 44 N. E. 639; *Peese* v. *Gellerman*, 51 Tex. Civ. App. 39, 110 S. W. 196; *Richards* v. *Collins*, 45 N. J. Eq. 283, 17 Atl. 831. However, when, as is usual, it is best for the child to have its father's care, his agreement to give the custody to another will not deprive him of the right to resume possession. *Wood* v. *Shaw*, 92 Kan. 70, 139 Pac. 1165. But if the agreement be regarded as valid, the father, when he rescinds it, must place the foster parent *in statu quo*. See WILLISTON'S WALD'S POLLOCK ON CONTRACTS, 337, 343. And even if, as most courts hold, the agreement is invalid, the case falls within the principle that one who performs services for another with the latter's assent, can recover their reasonable value. See WILLISTON'S WALD'S POLLOCK ON CONTRACTS, 11. Moreover, when a father fails to support his child, a stranger who supplies necessaries can recover from the father. *De Brauwere* v. *De Brauwere*, 203 N. Y. 460, 96 N. E. 722. Of course there can be no recovery by one who, when he conferred the benefit, intended it to be gratuitous. *Collyer* v. *Collyer*, 113 N. Y. 442, 21 N. E. 114; *Brown* v. *Tuttle*, 80 Me. 162. But in the

principal case, the plaintiff expected to receive compensation through the society of the child. Therefore, since his services under the agreement were not illegal or officious, he can recover on a *quantum meruit*.

PATENTS — INFRINGEMENT — USE BY GOVERNMENT. — Certain government officers drew up specifications for wireless apparatus for warships. These plans made it impossible to build such apparatus without infringement of the plaintiff's patent. The government advertised for bids and awarded the contract to supply the apparatus to the defendant. The patentee brings a bill to enjoin the carrying out of this contract. On a motion for a preliminary injunction the entire bill was dismissed. *Marconi Wireless Telegraph Co. of America* v. *Simon*, 54 N. Y. L. J. 671 (U. S. Dist. Ct., South. Dist. N. Y.).

Before 1910 a patentee had no relief for a governmental infringement of his patent unless a contractual obligation to pay for the same could be established. *Schillinger* v. *United States*, 155 U. S. 163; *United States* v. *Berdan Fire-Arms Mfg. Co.*, 156 U. S. 552. This was owing to the fact that the United States had consented to be sued only in actions sounding in contract. See U. S. REV. STAT., § 1059. In 1910 a statute was passed permitting a patentee to recover just compensation in the Court of Claims in case the United States used his patent without license or lawful right. See 1 FED. STAT. ANN., 1912 SUPP. 286. This statute has been construed as establishing the right of the government to appropriate a license to use a patent as an exercise of the power of eminent domain. See *Crozier* v. *Krupp*, 224 U. S. 290, 305. Under this construction the appropriation by the government is no longer a tort with no remedy but a lawful taking, since compensation need not precede the taking. *Great Falls Mfg. Co.* v. *Garland*, 25 Fed. 521. Granting, then, that since 1910 the government may lawfully appropriate a license to use a patent, it should be permitted to do so through the means of an independent contractor since there is no substantial difference between appropriating a patent directly by government agents or indirectly by an independent contractor. There is no hardship on the patentee since he recovers just compensation in the Court of Claims.

PLEDGES — WRONGFUL SALE OF STOCK BY BANK PRESIDENT — LIABILITY OF BANK. — The plaintiff pledged stock to the defendant bank, giving the president of the bank authority to sell the stock in case the debt was unpaid when due. The latter, without notice to the plaintiff, fraudulently sold the stock for an inadequate price. *Held*, that neither the bank nor its president is liable in trover for the conversion of the stock, but that the latter is liable for the damages the plaintiff has actually incurred. *Lem* v. *Wilson*, 150 Pac. 641 (Cal. Dist. Ct. of App.).

No express authority is needed to enable the pledgee to sell stock pledged if the debt remains unpaid at maturity, and the sale is made after due notice to the pledgor, for an adequate price, and under conditions reasonably tending to safeguard the pledgor's interests. *Morris Canal & Banking Co.* v. *Lewis*, 12 N. J. Eq. 323; *Diller* v. *Brubaker*, 52 Pa. St. 498. See JONES, PLEDGES AND COLLATERAL SECURITIES, 2 ed., §§ 721, 722, 723. In the principal case the authority given by the plaintiff to the bank president waived none of these conditions of sale, and was merely an affirmance of the pledgee's common-law right. Again it did not constitute the president the plaintiff's agent to sell the stock, for the sale is for the benefit of the bank, not for the plaintiff. See MECHEM, AGENCY, § 1. Nor is the president made a trustee, for the plaintiff, and not he, has the legal title to the pledge *res*. See PERRY, TRUSTS AND TRUSTEES, 6 ed., §§ 1, 2. Then, since the sale was wrongful, it amounts to a conversion of the stock. *Dimock* v. *United States Nat. Bank*, 55 N. J. L. 296, 25 Atl. 926; *Content* v. *Banner*, 184 N. Y. 121, 76 N. E. 913. Technically, it is a conversion for which trover should not lie, since the pledgor has neither posses-